

Message Text

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E.O. 11652: N/A

TAGS: SHUM, SOCI

SUBJECT: 32ND UNGA: HUMAN RIGHTS - GA INITIATIVES ON
HIGH COMMISSIONER AND TORTURE

REF: USUN 2353

1. HIGH COMMISSIONER FOR HUMAN RIGHTS: WITH RESPECT TO
TACTICS FOR FURTHERING THIS PROPOSAL AND DRAFTING NEW
RESOLUTION IN WEO GROUP, THE DEPARTMENT HAS THE FOLLOWING
OBSERVATIONS AND COMMENTS:

A. WE AGREE ENTIRELY WITH COSTA RICAN DESIRE TO MAIN-
TAIN FLEXIBILITY, IN THE BELIEF THAT IT IS BETTER TO KEEP
THE PROPOSAL ALIVE THAN HAVE IT BURIED BY A NEGATIVE VOTE.

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B. AS PRESENTLY ENVISAGED IN THE DRAFT RESOLUTION
(A/C. 3/L. 2075) PUT FORWARD BY COSTA RICA AND SWEDEN IN
1973, THE HIGH COMMISSIONER WOULD BE CHARGED WITH PROMOTING
THE ENTIRE RANGE OF HUMAN RIGHTS SET FORTH IN THE CHARTER,
THE UNIVERSAL DECLARATION, AND OTHER INSTRUMENTS (OPERATIVE
PARA 2). WE SEE NO PROBLEM WITH HIGHLIGHTING HIS ROLE IN

THE IMPLEMENTATION OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS,
PERHAPS FOLLOWING THE EXAMPLE NOW CONTAINED IN OPERATIVE

PARA 3(E) WHICH FOCUSES ON VIOLATIONS OF A RACIAL, ETHNIC,
RELIGIOUS OR COLONIALIST CHARACTER. WE WOULD NOT, HOW-
EVER, WANT SUCH HIGHLIGHTING TO OBSCURE IN ANY WAY HIS
MANDATE IN THE FIELD OF CIVIL AND POLITICAL RIGHTS.

C. ALTHOUGH THE CURRENT DRAFT TEXT (OPERATIVE PARA 3)
DEFINES THE HIGH COMMISSIONER'S FUNCTIONS "WITHOUT PREJU-
DICE TO THE FUNCTIONS AND POWERS OF ORGANS ALREADY IN
EXISTENCE OR WHICH MAY BE ESTABLISHED," THERE IS AN OBVIOUS
DUPLICATION IN OPERATIONAL PARA 3(D) WITH THE 1503 PROCE-
DURES THAT OUGHT TO BE ELIMINATED. IT SEEMS IMPORTANT,
THOUGH, THAT THE HIGH COMMISSIONER KEEP INFORMED OF ALL
UN ACTIVITIES IN THE HUMAN RIGHTS FIELD, INCLUDING COMMU-
NICATIONS, IN ORDER TO INITIATE ACTION COMTEMPLATED IN
OPERATIVE PARA 3(A). ONE WAY TO ENSURE THAT HE DOES
RECEIVE NECESSARY INFORMATION WOULD BE TO AMEND PRESENT
OPERATIVE PARA 7 TO READ: "REQUESTS THE SECRETARY-GENERAL
TO KEEP THE HIGH COMMISSIONER INFORMED OF THE WORK OF ALL
ORGANS OF THE UNITED NATIONS AND THE SPECIALIZED AGENCIES
CONCERNED WITH HUMAN RIGHTS AND TO SUPPLY FACILITIES
AND INFORMATION REQUIRED FOR CARRYING OUT HIS FUNCTION."

D. WITH RESPECT TO THE IDEA OF THE HIGH COMMISSIONER
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STUDYING UN HUMAN RIGHTS ACTIVITIES AND MAKING RECOMMEN-
DATIONS ON THEM, THESE FUNCTIONS ARE ALREADY WELL WITHIN
THE MANDATE COMTEMPLATED (SEE OPERATIVE PARAS 3(A) AND
3(B)) AND WOULD BE A NECESSARY AND PROPER PART OF HIS JOB.
TO GIVE SPECIAL ATTENTION IN A RESOLUTION TO SUCH A TASK
WOULD, IT SEEMS TO US, SIMPLY CHARGE HIM WITH AN ELABORATE
PAPER PROJECT THAT COULD SIDETRACK HIM AND HIS STAFF FROM
THE CREATIVE AND CATALYTIC ROLE WE HOPE HE CAN FILL.

E. DEPARTMENT RECALLS THAT HIGH COMMISSIONER PROPOSAL
HAS BEEN CAREFULLY PUT TOGETHER IN BALANCED FORM THROUGH
A NUMBER OF EXAMINATIONS IN THE PAST, STARTING IN 1966 IN
THE COMMISSION ON HUMAN RIGHTS, FOLLOWED BY CONSIDERATION
IN THE ECOSOC AND THE UNGA. WE WOULD OPPOSE ANY DRASTIC
REVISIONS IN THE DRAFT RESOLUTION WHICH WOULD DIMINISH TOO
FAR THE NECESSARY INDEPENDENCE AND EFFECTIVENESS OF SUCH A
POST. FOR THIS REASON, USUN IS URGED TO ARGUE STRONGLY
FOR THE MINIMUM OF CHANGE. DEPT. ALSO HOPES THAT AGREE-
MENT ON TEXT CAN BE QUICKLY ACHIEVED SO THAT CONTACTS WITH
DELEGATIONS OUTSIDE THE CORE GROUP CAN BE BEGUN. DEPT.
WILL AWAIT MISSION'S RECOMMENDATIONS ON APPROACHES TO
CAPITALS AS CORE GROUP MAY DEEM ADVISABLE.

2. TORTURE: DEPARTMENT CONCURS IN USUN'S STATEMENT OF DETERMINATION TO PROCEED WITH TORTURE INITIATIVE. WHILE WE WELCOME SUGGESTIONS FROM WEO MEMBERS, AND EARNESTLY HOPE SOME WILL BE FORTHCOMING, WE ARE ANXIOUS TO AVOID BEING IDENTIFIED WITH A DRAFT RESOLUTION THAT MERELY CALLS FOR A GENERALIZED AND ABSTRACT STUDY OF THE PROBLEM AND ITS CAUSES. RECOGNIZING THAT NAMING NAMES AND IDENTIFYING SPECIFIC SITUATIONS WHERE TORTURE OCCURS ARE THE MOST CONTENTIOUS PART OF OUR PROPOSAL, WE DO NOT SEE HOW THESE CAN BE ENTIRELY AVOIDED IF THE PROPOSAL IS TO BEAR ANY RELATION TO THE REAL WORLD. IN AN EFFORT TO MINIMIZE CONTENTION WE MIGHT CONSIDER A MIDDLE GROUND THAT WOULD HAVE A WORKING GROUP CONCENTRATE NOT SO MUCH ON DESCRIP-
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TIONS OF EXISTING SITUATIONS WHERE TORTURE OCCURS BUT ON EFFECTIVE STEPS THAT GOVERNMENTS AND THE INTERNATIONAL COMMUNITY CAN TAKE ON THOSE EGREGIOUS CASES THAT ARE ALREADY OBJECTS OF INTERNATIONAL NOTORIETY.

3. FOLLOWING CHANGES IN TEXT OF DRAFT RESOLUTION DATA FAXED FROM USUN JULY 27 COULD POSSIBLY ACCOMPLISH THIS RESULT:

INSERT NEW OPERATIVE PARA (D) AS FOLLOWS:

"ON THE BASIS OF A COMPARATIVE ANALYSIS OF THE LEGAL AND ADMINISTRATIVE STRUCTURES OF GOVERNMENTS IN WHICH TORTURE IS EFFECTIVELY CONTROLLED, IDENTIFY THE PRINCIPAL DEFICIENCIES WHICH CHARACTERIZE THOSE SYSTEMS IN WHICH TORTURE HAS BEEN PRACTICED AND RECOMMEND GENERAL GUIDELINES AND SPECIFIC MEASURE TO BE FOLLOWED BY GOVERNMENTS TO ELIMINATE ALL PRACTICES OF TORTURE."

RELETTER OLD PARA (D) AS (E) AND DELETE EVERYTHING AFTER ASSEMBLY.

4. USUN'S COMMENT ON THIS APPROACH WOULD BE WELCOME.
VANCE

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